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Message Text

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44
ORIGIN AF-18

INFO OCT-01 ISO-00 L-03 CIAE-00 INR-11 NSAE-00 RSC-01

CIEP-03 COME-00 EB-11 LAB-06 SIL-01 FEAE-00 SCI-06

TAR-02 TRSE-00 STR-08 INT-08 SS-20 NSC-07 SP-03 IO-14

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L/AF:BKHUFFMAN
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---------- 061262
P R 261557Z AUG 74
FM SECSTATE WASHDC
TO AMCONSUL CAPE TOWN PRIORITY
INFO AMEMBASSY PRETORIA
AMCONSUL JOHANNESBURG
AMCONSUL DURBAN

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E.O. 11652: N/A
TAGS: ELAB, ENRG, ST
SUBJECT: SOUTH AFRICAN COAL EXPORTS TO U. S.

REF: CAPE TOWN 0461

CAPE TOWN FOR EMBASSY

1. PETITIONERS, ALABAMA ATTORNEY GENERAL AND PRESIDENT OF UNITED MINE WORKERS, HAVE COMMENCED PROCEEDINGS UNDER 19 U. S. C. 1307 BEFORE U. S. COMMISSIONER OF CUSTOMS TO BLOCK IMPORTS BY A PENSACOLA POWER FACILITY OF LOW-SULFUR SOUTH AFRICAN COAL. 19
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USC 1307 DIRECTS SECRETARY OF TREASURY TO PROHIBIT IMPORTATION

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OF GOODS PRODUCED BY CONVICT, FORCED OR INDENTURED LABOR UNLESS SUPPLY OF SUCH GOODS PRODUCED IN US DOES NOT MEET US DEMAND.

2. PETITIONERS, WITH THE ASSISTANCE OF THE LAWYERS COMMITTEE FOR CIVIL
RIGHTS UNDER LAW, HAVE ASKED THE COMMISSIONER OF CUSTOMS TO BLOCK RELEASE OF THE FIRST 22,000 TONS COAL SHIPMENT DUE MOBILE, ALABAMA ON OR ABOUT AUGUST 25 PENDING A FINAL DECISION ON PROCEEDINGS. TITLE 19, SECTION 12.42 (E) OF US CODE OF FEDERAL REGULATIONS PROVIDES FOR SUCH ACTION WHERE COMMISSIONER FINDS THAT INFORMATION AVAILABLE REASONABLY BUT NOT CONCLUSIVELY, INDICATES THAT MERCHANDISE WITHIN PURVIEW OF SECTION 1307 IS LIKELY TO BE IMPORTED. SINCE SOUTH AFRICAN BANTU LABOR ACT SPECIFICALLY PROVIDES FOR CRIMINAL PENALTIES AGAINST LABORERS FAILING TO HONOR THEIR EMPLOYMENT CONTRACTS, PETITIONERS COULD CONCEIVABLY HAVE STRONG CASE FOR APPLICABILITY OF 19 USC 1307 UNLESS SHORT DOMESTIC SUPPLY SITUATION EXISTS. CONSEQUENTLY, COUNSEL FOR IMPORTED IS CONTENDING THAT LOW-SULPHUR COAL DEMAND IN US CURRENTLY EXCEEDS DOMESTICALLY PRODUCED SUPPLY AND THEREBY EXCEPTION PROVISION OF 19 USC 1307 IS APPLICABLE. PETITIONERS DO NOT ACCEPT SHORT-SUPPLY ARGUMENT.

3. SOUTH AFRICAN EMBASSY AND IMPORTER'S COUNSEL REQUESTED DEPARTMENT TO INTERCEDE IN PROCEEDING TO ENSURE THAT FIRST SHIPMENT WOULD BE RELEASED TO IMPORTED BY DEPARTMENT DECLINED ON GROUNDS THAT THERE IS NO LEGAL BASIS FOR SUCH INTERVENTION WITH COMMISSIONER OF CUSTOMS. BEGIN FYI: WE UNDERSTAND THAT UMW PRESIDENT ARNOLD MILLER HAS TELEGRAPHED PRESIDENT FORD SEEKING AN EXPRESSION OF INTEREST FROM HIM IN THE PROCEEDING. END FYI.

4. SUCESS BY PETITIONERS IN PRESENT PROCEEDING COULD CONCEIVABLY HAVE FAR REACHING IMPLICATIONS FOR US IMPORTS FROM SOUTH AFRICA OF OTHER COMMODITIES PRODUCED BY LABORERS WORKING UNDER CRIMINAL PENALTY CONDITIONS IMPOSED BY BANTU LABOR ACT. POSTS WILL BE KEPT INFORMED OF FURTHER DEVELOPMENTS. KISSINGER

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